THE FICTIV ARCHIVE

# Squatting or Adverse Possession

*On ignorance of law, agnotology, and adverse possession*

SERIES: LEGAL MEMORANDA

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ignorantia juris non excusat - Latin meaning 'ignorance of the law excuses not', or ignorantia legis neminem excusat meaning 'ignorance of law excuses no one'. Ignorance is a lack of knowledge or awareness, information and understanding. Deliberate ignorance is a culturally-induced phenomenon, the study of which is called agnotology.

> Within the sociology of knowledge, agnotology formerly agnatology, is the study of deliberate, culturally cultivated ignorance or doubt, typically to sell a product, influence opinion, or win favor, particularly through the publication of inaccurate or misleading scientific data, i.e. disinformation. More generally, the term includes the condition where more knowledge of a subject creates greater uncertainty. The word "ignorant" is an adjective that describes a person in the state of being unaware, or even cognitive dissonance and other cognitive relation, and can describe individuals who are unaware of important information or facts. Ignorance can appear in three different types: factual ignorance which is absence of knowledge of some fact, object ignorance which is unacquaintance with some object, and technical ignorance which is absence of knowledge of how to do something.

Adverse Abandonment

Adverse abandonment is a legal process where a third party who is often a trustee in bankruptcy attempts to terminate trackage rights or easements held by a non-debtor over rail lines owned by a debtor. Unlike standard abandonment, where a rail carrier seeks permission to discontinue its own operations, adverse abandonment involves affecting the rights of a third party rather than the carrier's own property or service rights. In short, adverse abandonment seeks to abandon or discontinue rail lines or services over another party's property, even if the owner objects. It is customarily utilized in bankruptcy proceedings.

Adverse abandonment is significant in bankruptcy and rail regulation because it balances the interests of non-debtor carriers, shippers, and public convenience. It ensures that third-party rights are not terminated without regulatory oversight, preventing unilateral disruption of rail service and protecting commerce and community interests (eCFR, 49 CFR Part 1152

Under the U.S. Bankruptcy Code, Section 1170, bankruptcy courts have authority to approve abandonment of rail lines owned by a debtor causing discontinuance of service. However, courts generally do not have the power to grant adverse abandonments affecting non-debtor rail carriers' rights; such actions are typically under the jurisdiction of the Surface Transportation Board (STB). The STB, successor to the Interstate Commerce Commission, regulates rail line abandonments and discontinuances under 49 U.S.C. § 10903, ensuring that public convenience and necessity are considered. See eCFR, 49 CFR Part 1152.

For a standard abandonment, a rail carrier must file an application with the STB, providing details such as traffic data, financial considerations, and notice to affected parties, including states and significant shippers. The STB evaluates whether the abandonment or discontinuance would have a serious adverse impact on communities or commerce before granting approval (49 U.S.C. § 10903). In contrast, an adverse abandonment petition allows a third party to request the STB to discontinue service or rights over another carrier's line, even if the line owner objects, but the STB retains ultimate authority to approve or deny the request.

Adverse abandonment has three key distinctions: 1) Standard Abandonment: Carrier seeks to abandon its own line; STB approval required. 2) Adverse Abandonment: Third party seeks to terminate rights over another's line; STB may grant approval despite owner objection. 3) Bankruptcy Context: Section 1170 allows abandonment of debtor-owned lines, but not adverse abandonment of non-debtor rights.

Squatting or Adverse possession via Acquisitive prescription or Usucaption

Adverse possession in common law, i.e., "the body of law derived from judicial decisions, rather than from statutes, i.e., a law or formal written enactment of a legislature, i.e., a deliberative assembly that holds the legal authority to make law and exercise political oversight within a political entity such as a state, nation, or city. In most political systems, the laws enacted by legislatures are referred to as primary legislation.

A sovereign state is a state that has the highest authority over a territory. It is commonly understood that a sovereign state is independent. When referring to a specific polity, the term "country" may also refer to a constituent or representative country, or a dependent territory, such as an Indian reservation. A sovereign state is required to have a permanent population, defined territory, a government not under another, and the capacity to interact with other sovereign states. In actual practice, recognition or non-recognition by other states plays an important role in determining the status of a country. Although the political existence of the sovereign state is independent of recognition by the other states, Unrecognized states often have difficulty engaging in diplomatic relations with other sovereign states.

A polity is a group of people with a collective identity, who are organized by some form of political, institutionalized, social relations, and have a capacity to mobilize resources. It is the unit or entity of a political community or body politic. A polity can be any group of people organized for governance, such as by the board of a corporation, and in the case of a federal country, the government that exists at both its federal level and the level of its subdivided regions. A polity may have various forms, such as a republic administered by an elected representative, a realm of a hereditary monarch, an incorporated city managed by an appointed mayor, and many others. The preeminent or most fundamental polities today are generally understood to be federal and unitary states made up of Westphalian states and nation-states, commonly referred to as countries, which, in the case of the former, may govern federated states varyingly referred to as states, provinces, regions, cantons, lands, governorates, oblasts, emirates, or countries, when narrowly structured. These form the basis of international law and organizations, such as the United Nations which is itself the governing structure of a global polity.

The English word nation from Middle English c. 1300, nacioun "a race of people, large group of people with common ancestry and language," from Old French nacion "birth (naissance), rank; descendants, relatives; country, homeland" (12c.) and directly from Latin nationem (nominative natio (nātĭō), supine of verb nascar « to birth » (supine : natum)) "birth, origin; breed, stock, kind, species; race of people, tribe," literally "that which has been born," from natus, past participle of nasci "be born" (Old Latin gnasci), from PIE root *gene- "give birth, beget," with derivatives referring to procreation and familial and tribal groups. In Latin, natio represents the children of the same birth and also a human group of same origin. By Cicero, natio is used for "people".

A nation is a type of social organization where a collective identity—a national identity—has emerged from a combination of shared features across a given population, such as language, history, ethnicity, culture, territory, or society. Some nations are constructed around ethnicity, while others are bound by political constitutions. A nation is generally more overtly political than an ethnic group. Benedict Anderson defines a nation as "an imagined political community […] imagined because the members of even the smallest nation will never know most of their fellow-members, meet them, or even hear of them, yet in the minds of each lives the image of their communion", while Anthony D. Smith defines nations as cultural-political communities that have become conscious of their autonomy, unity and particular interests. Black's Law Dictionary also defines nation as a community of people inhabiting a defined territory and organized under an independent government. Thus, nation can be synonymous with state or country. Indeed, according to Thomas Hylland Eriksen, what distinguishes nations from other forms of collective identity, like ethnicity, is this very relationship with the state. The consensus among scholars is that nations are socially constructed, historically contingent, organizationally flexible, and a distinctly modern phenomenon. Throughout history, people have had an attachment to their kin group and traditions, territorial authorities and their homeland, but nationalism

– the belief that state and nation should align as a nation state – did not become a prominent ideology until the end of the 18th century.

A city is a human settlement of a substantial size. The term "city" has different meanings around the world and in some places the settlement can be very small. Even where the term is limited to larger settlements, there is no universally agreed definition of the lower boundary for their size. In a narrower sense, a city can be defined as a permanent and densely populated place with administratively defined boundaries whose members work primarily on non-agricultural tasks. Cities generally have extensive systems for housing, transportation, sanitation, utilities, land use, production of goods, and communication. Their density facilitates interaction between people, government organizations, and businesses, sometimes benefiting different parties in the process, such as improving the efficiency of goods and service distribution. A city can be distinguished from other human settlements by its relatively great size, but also by its functions and its special symbolic status, which may be conferred by a central authority. The term can also refer either to the physical streets and buildings of the city or to the collection of people who dwell there and can be used in a general sense to mean urban rather than rural territory. According to the "functional definition", a city is not distinguished by size alone, but also by the role it plays within a larger political context. Cities serve as administrative, commercial, religious, and cultural hubs for their larger surrounding areas. The presence of a literate elite is often associated with cities because of the cultural diversities present in a city. A typical city has professional administrators, regulations, and some form of taxation to support the government workers / employees.

This arrangement contrasts with the more typically horizontal relationships in a tribe or village accomplishing common goals through informal agreements between neighbors, or the leadership of a chief. The governments may be based on heredity, religion, military power, work systems such as canal-building, food distribution, land-ownership, agriculture, commerce, manufacturing, finance, or a combination of these. Societies that live in cities are often called civilizations. Historically, city dwellers have been a small proportion of humanity overall, but following two centuries of unprecedented and rapid urbanization, more than half of the world population now lives in cities, which has had profound consequences for global sustainability. Present-day cities usually form the core of larger metropolitan areas and urban areas—creating numerous commuters traveling toward city centers for employment, entertainment, and education. However, in a world of intensifying globalization, all cities are to varying degrees also connected globally beyond these regions. This increased influence means that cities also have significant influences on global issues, such as sustainable development, climate change, and global health. Because of these major influences on global issues, the international community has prioritized investment in sustainable cities through Sustainable Development Goal 11. Due to the efficiency of transportation and the smaller land consumption, dense cities hold the potential to have a smaller ecological footprint per inhabitant than more sparsely populated areas. Therefore, compact cities are often referred to as a crucial element in fighting climate change. However, this concentration can also have some significant harmful effects, such as forming urban heat islands, concentrating pollution, and stressing water supplies and other resources.

Legislatures may also perform oversight, budgetary, and representative functions. Members of a legislature, called legislators, may be elected, indirectly chosen, or appointed, and legislatures may be unicameral, bicameral, or multicameral, depending on their constitutional design. There are several types of legislatures, reflecting the different constitutional principles of power on which states are organized. These types illustrate how legislatures differ not only in structure and function, but also in their constitutional relationship to other state institutions and in the theories of sovereignty and power that underpin them. The most common types are parliaments, which operate under the fusion of powers between the executive and the legislature; congresses, which function under the separation of powers between independent branches of government—in these systems, the legislature is institutionally separate from the other branches and has limited means to influence their operations; and supreme state organs of power, found in communist states, which operated under the doctrine of unified power,

centralizing executive, legislative, judicial and all other state powers in a supreme state organ of power, with subordinate organs carrying out delegated functions within a constitutionally defined division of labor among state organs. Legislatures are among the principal institutions of state, typically contrasted with the executive and judicial institutions. They may exist at different levels of governance—national, subnational, i.e., state, provincial, or regional, local, or supranational—such as the European Parliament, or constitutions", and the related civil law concept of usucaption, also termed acquisitive prescription or prescriptive acquisition, are legal mechanisms under which a person who does not have legal title to a piece of property, usually real property, may acquire legal ownership based on continuous possession or occupation without the permission or license of its legal owner.

Common law is the body of law primarily developed through judicial decisions rather than statutes. Although common law may incorporate certain statutes, it is largely based on precedent—judicial rulings made in previous similar cases. The presiding judge determines which precedents to apply in deciding each new case. It is deeply rooted in the principle of stare decisis, i.e., "to stand by things decided", where courts follow precedents established by previous decisions. When a similar case has been resolved, courts typically align their reasoning with the precedent set in that decision. However, in a "case of first impression" with no precedent or clear legislative guidance, judges are empowered to resolve the issue and establish new precedent. The common law, so named because it was common to all the king's courts across England, originated in the practices of the courts of the English kings in the centuries following the Norman Conquest in 1066. It established a unified legal system, gradually supplanting the local folk courts and manorial courts. England spread the English legal system across the British Isles, first to Wales, and then to Ireland and overseas colonies; this was continued by the later British Empire. Many former colonies retain the common law system today. These common law systems are legal systems that give great weight to judicial precedent, and to the style of reasoning inherited from the English legal system. Today, approximately one-third of the world's population lives in common law jurisdictions or in mixed legal systems that integrate common law and civil law. Legal systems that rely on common law as precedent are known as "common law jurisdictions." Until the early 20th century, common law was widely believed to derive its authority from ancient Anglo-Saxon customs. Well into the 19th century, it was still defined as 'unwritten law' (lex non scripta) in legal dictionaries such as Bouvier's Law Dictionary and Black's Law Dictionary. According to William Blackstone's declaratory theory the common law reaffirmed pre-existing customs but did not make new law. The term "judge-made law" was introduced by Jeremy Bentham as a criticism of this pretense of the legal profession.

The word "Statute" and earlier English spellings were derived from the Old French words statut, estatut, estatu, meaning "royal promulgation, legal statute." These terms were in turn derived from the Late Latin statutum, meaning "a law, decree." The word appears in use in English as early as the 14th century. Statutes typically declare, command or prohibit something. Statutes are distinguished from court law and unwritten law or common law, in that they are the expressed will of a legislative body, whether that be on the behalf of a country, state or province, county, municipality, or so on. They are also distinguished from secondary legislation, or regulations, that are issued by an executive body under authority granted by a statute. Depending on the legal system, a statute may also be referred to as an "act." In international law, the term "statute" is also used to refer to an International treaty that establishes an institution, such as the Statute of the European Central Bank, a protocol to the international courts as well, such as the Statute of the International Court of Justice and the Rome Statute of the International Criminal Court. "Statute" is also another word for law. The term was adapted from England in about the 18th century. In autonomous communities, an autonomy statute is a legal document similar to the constitution of a federated state, save that it is enacted by the national legislature, rather than the autonomous community it governs. The autonomy statutes in Spain have the rank of ley orgánica (organic law), a category of special legislation reserved for the main institutions and issues and mentioned in the constitution (the highest ranking legal instrument in Spain). Leyes orgánicas rank between the constitution and ordinary laws. The name was

chosen, among others, to avoid confusion with the term constitution (i.e. the Spanish constitution of 1978). The by-laws of some universities, particularly in the United Kingdom, are termed statutes. Revision of these normally requires permission from the Privy Council.

Occupation without legal title

It is sometimes colloquially described as squatter's rights, a term associated with occupation without legal title during the westward expansion in North America, as occupying real property without permission is central to adverse possession. Some jurisdictions regulate squatting separately from adverse possession. Legal title cannot be acquired in an extralegal jurisdiction.

Description

In general, a property owner has the right to recover possession of their property from unauthorized possessors through legal action such as ejectment. However, many legal systems courts recognize that once someone has occupied property without permission for a significant period of time without the property owner exercising their right to recover their property, not only is the original owner prevented from exercising their right to eject, but a new title to the property "springs up" in the adverse possessor. In effect, the adverse possessor becomes the property's new owner. Over time, legislatures created statutes of limitations setting a time limit for how long owners have to recover possession of their property from adverse possessors. In the United States, for example, these limitation periods vary widely between individual states, ranging from as low as three years to as long as 40 years.

Although the elements of an adverse possession action differ by jurisdiction, a person claiming adverse possession in a common law system is usually required to prove non-permissive use of the property that is actual, open and notorious, exclusive, adverse and continuous for the statutory period. The possession by a person is not adverse during periods when they are in possession as a tenant or licensee of the legal owner.

Civil Law jurisdictions may recognize a similar right of acquisitive prescription. For example, the French Code Civil 2258 et. seq. recognizes that title may be acquired through thirty years of "continuous and uninterrupted possession which is peaceful, public, unequivocal, and as owner." It is related to the Roman law concept of usucaption or usucapio.

In Denmark, the concept was first mentioned as "Hævd" in Jyske Lov in 1241, though only regulating between peasants and the church, with an asymmetric time limit of 30 years for the church, and 40 years for the peasant. In 1475, the 40 year limit was ruled to apply between farmers as well. In 1547, after the Reformation, a rule was passed to change this to 20 years for everyone. The rule was later adopted into the Danish Code, published in 1683, this specific part still being in force today. The Norwegian Code from 1688, also contains a similar provision.

Personal property, traditionally known as chattel, may also be adversely possessed, but owing to the differences in the nature of real and chattel property, the rules governing such claims are rather more stringent, and favor the legal owner rather than the adverse possessor. Claims for adverse possession of chattel often involve works of art.

History

In Roman law, usucapio laws allowed someone who was in possession of a good without title to become the lawful proprietor if the original owner did not appear after some time; usually one or two years, unless the good was obtained illegally for example, by theft or force, such as via foreclosure or eviction. Stemming from Roman law and its successor, the Napoleonic Code generally recognizes two time periods for the acquisition of property: 30 years and some lesser time period, depending on the bona fides of the possessor and the location of the parties involved.

Bona fides is a Latin phrase meaning "good faith". Its ablative case, meaning "in good faith", which is often used in English as an adjective to mean "genuine". Some Latin phrases have lost their literal meaning over centuries, but Latin: bona fides is still widely used and interchangeable with its generally accepted modern-day English translation of good faith. While may be translated as "faith", it embraces a range of meanings within a core concept of "reliability", in the sense of a trust between two parties for the potentiality of a relationship. For the ancient Romans, bona fides was to be assumed by both sides, with implied responsibilities and both legal and religious consequences if broken. According to Roman law, "bona fides requires that what has been agreed upon be done" and was the principle of acting with integrity. Fides was one of the original virtues to be considered a divinity in ancient Roman religion. In contemporary English, is synonymous with credentials and identity. The phrase is sometimes used in job advertisements, and should not be confused with the bona fide occupational qualifications or the employer's good faith effort, as described below. In law, denotes the mental and moral states of honesty and conviction regarding either the truth or the falsity of a proposition, or of a body of opinion; likewise regarding either the rectitude or the depravity of a line of conduct. As a legal concept, is especially important in matters of equity. The concept of Latin: bona fide is also proclaimed by the original version of Magna Carta.

In contract law, the implied covenant of good faith is a general presumption that the parties to a contract will deal with each other honestly and fairly, so as not to destroy the right of the other party or parties to receive the benefits of the contract. In insurance law, the insurer's breach of the implied covenant may give rise to a legal liability known as insurance bad faith. Most U.S. jurisdictions view breaches of implied covenants of good faith and fair dealing solely as variants of breach of contract. Linguistically, in the U.S., American English usage of is synonymous with credentials, professional background, and documents attesting a person's identity, which is not synonymous with bona fide occupational qualifications. More recently, other common law countries have begun to adopt good faith as a general principle. In the U.K., the High Court in Yam Seng Pte Ltd v International Trade Corp Ltd expressed this preference. In Canada, the Supreme Court declared in Bhasin v Hrynew that good faith was a general organizing principle.

Parliament passed England's first general statute limiting the right to recover possession of land in 1623, the Limitation Act 1623 (21 Jas. 1. c. 16). At common law, if entitlement to possession of land was in dispute originally only in what were known as real actions, the person claiming a right to possession was not allowed to allege that the land had come into their possession in the past in older terminology that he had been 'put into seisin' at a time before the reign of Henry I. The law recognized a cutoff date going back into the past, before which date the law would not be interested. There was no requirement for a defendant to show any form of adverse possession. As time went on, the date was moved by statute—first to the reign of Henry II, and then to the reign of Richard I. No further changes were made of this kind. By the reign of Henry VIII the fact that there had been no changes to the cutoff date had become very inconvenient. A new approach was taken whereby the person claiming possession had to show possession of the land for a continuous period, a certain number of years, e.g., 60, 50 or 30 depending on the kind of claim made before the date of the claim. Later statutes have shortened the limitation period in most common law jurisdictions.

At traditional English common law, it was not possible to obtain title to property of the Crown by means of adverse possession.

This principle was embodied by the Latin maxim nullum tempus occurrit regi, i.e., 'no time runs against the king'. In the United States, this privilege was carried over to the federal and state governments; government land is immune from loss by adverse possession.

Land with registered title in some Torrens title systems is also immune, for example, land that has been registered in the Hawaii Land Court system. In the common law system of England and its historical colonies,

local legislatures—such as Parliament in England or American state legislatures—generally create statutes of limitations that bar the owners from recovering the property after a certain number of years have passed.

England and Wales

Adverse possession is one of the most contentious methods of acquiring property, albeit one that has played a huge role in the history of English land. Historically, if someone possessed land for long enough, it was thought that this in itself justified acquisition of a good title. This meant that while English land was continually conquered, pillaged, and stolen by various factions, lords or barons throughout the Middle Ages, those who could show they possessed land long enough would not have their title questioned. A more modern function has been that land which is disused or neglected by an owner may be converted into another's property if continual use is made. Squatting in England has been a way for land to be efficiently utilized, particularly in periods of economic decline. Before the Land Registration Act 2002, if a person had possessed land for 12 years, then at common law, the previous owner's right of action to eject the "adverse possessor" would expire. The common legal justification was that under the Limitation Act 1623 (21 Jas. 1. c. 16), just like a cause of action in contract or tort had to be used within a time limit, so did an action to recover land. This promoted the finality of litigation and the certainty of claims. Time would start running when someone took exclusive possession of land, or part of it, and intended to possess it adversely to the interests of the current owner. Provided the common law requirements of "possession" that was "adverse" were fulfilled, after 12 years, the owner would cease to be able to assert a claim. Different rules are in place for the limitation periods of adverse possession in unregistered land and registered land. However, in the Land Registration Act 2002 adverse possession of registered land became much harder. In recent times the Land Registry has made the process of claiming adverse possession and being awarded “title absolute” more difficult. Simply occupying or grazing the land will no longer justify the grant of title, instead the person in adverse possession must demonstrate commitment to own and utilize the land to the exclusion of all others. Another significant limit on the principle, in the case of leases, is that adverse possession actions will only succeed against the leaseholder, and not the freeholder once the lease has expired.

Land Registration Act 2002

The Land Registration Act 2002 received royal assent on 26 February 2002. The rules for unregistered land remained as before. But under schedule 6 of the Land Registration Act 2002, paragraphs 1 to 5, after 10 years the adverse possessor is entitled to apply to the registrar to become the new registered owner. The registrar then contacts the registered title holder and notifies him of the application. If no proceedings are launched for two years to eject the adverse possessor, only then would the registrar transfer title. Prior to the Land Registration Act 2002, a land owner could simply lose title without being aware of it or notified. This was the rule because it indicated the owner had never paid sufficient attention to how the land was in fact being used, and therefore the former owner did not deserve to keep it. Before 2002, time was seen to cure everything. The rule's function was to ensure land was used efficiently.

Requirements

Before the considerable hurdle of giving a registered owner notice was introduced in the Land Registration Act 2002, the particular requirements of adverse possession were reasonably straight forward.

First, under schedule 1, paragraphs 1 and 8 of the Limitation Act 1980, the time when adverse possession began was when "possession" was taken. This had to be more than something temporary or transitory, such as simply storing goods on a land for a brief period. But "possession" did not require actual occupation. So in Powell v McFarlane, it was held to be "possession" when Mr Powell, from age 14, let his cows roam into Mr McFarlane's land. The intruder must also show that they were dealing with the land as an occupying owner might have done, and that no one else had done so.

The second requirement, however, was that there needed to be an intention to possess the land. Mr Powell lost his claim because simply letting his cows roam was an equivocal act: it was only later that there was evidence he intended to take possession, for instance by erecting signs on the land and parking a lorry. But this had not happened long enough for the 12-year time limit on McFarlane's claim to have expired. As a result, proving intention to possess is likely to rely heavily on the factual matrix of the case and the squatters' factual possession. In Clowes Developments (UK) Ltd v Walters and Others [2005] EWHC (Ch), the squatter cannot be found to have an intention to possess if they mistakenly believe that they are on the property with the permission of the title owner.

Third, possession is not considered "adverse" if the person is there with the owner's consent. For example, in BP Properties Ltd v Buckler, Dillon LJ held that Mrs Buckler could not claim adverse possession over land owned by BP because BP had told her she could stay rent free for life. Fourth, under the Limitation Act 1980 sections 29 and 30, the adverse possessor must not have acknowledged the title of the owner in any express way, or the clock starts running again. However, the courts have interpreted this requirement flexibly.

Human rights challenges

In JA Pye (Oxford) Ltd v Graham, Mr and Mrs Graham had been let a part of Mr Pye's land, and then the lease had expired. Mr Pye refused to renew a lease, on the basis that this might disturb getting planning permission. In fact the land remained unused, Mr Pye did nothing, while the Grahams continued to retain a key to the property and used it as part of their farm. At the end of the limitation period, they claimed the land was theirs. They had in fact offered to buy a licence from Mr Pye, but the House of Lords held that this did not amount to an acknowledgement of title that would deprive them of a claim. Having lost in the UK courts, Mr Pye took the case to the European Court of Human Rights, arguing that his business should receive £10 million in compensation because it was a breach of his right to "peaceful enjoyment of possessions" under Protocol 1, article 1 of the European Convention on Human Rights. The court in its Grand Chamber rejected this, holding that it was within a national government's margin of appreciation to determine the relevant property rules. The House of Lords in Ofulue v Bossert in 2009 confirmed this understanding.

Timing

For registered land, adverse possession claims completed before 13 October 2003 (the date the Land Registration Act 2002 came into force) are governed by section 75(1) and 75(2) of the Land Registration Act 1925. The limitation period remains the same (12 years) but instead of the original owner's title to the land being extinguished, the original owner holds the land on trust for the adverse possessor. The adverse possessor can then apply to be the new registered proprietor of the land. For registered land, adverse possession claims completed after 13 October 2003 follow a different procedure. Where land is registered, the adverse possessor may henceforth apply to be registered as owner after 10 years of adverse possession and the Land Registry must give notice to the true owner of this application. This gives the landowner a statutory period of time (65 business days) to object to the adverse possession, object to the application on the ground that there has not actually been the necessary 10 years' adverse possession, and/or to serve a "counter-notice". If a counter-notice is served, then the application fails unless:

It would be unconscionable because of an equity by estoppel for the registered proprietor to seek to dispossess the squatter and the squatter ought in the circumstances to be registered as proprietor, or

The squatter is for some other reason entitled to be registered as proprietor, or

The squatter has been in adverse possession of land adjacent to their own under the mistaken but reasonable belief that they are the owner of it, the exact line of the boundary with this adjacent land has not been determined and the estate to which the application relates was registered more than a year prior to the date of the application.

Otherwise, the squatter becomes the registered proprietor according to the land registry. If the true owner is unable to evict the squatter in the two years following the first [unsuccessful] application, the squatter can apply again after this period and be successful despite the opposition of the owner. The process effectively prevents the removal of a landowner's right to property without their knowledge, while ensuring squatters have a fair way of exercising their rights. Where a tenant adversely possesses land, there is a presumption that they are doing so in a way that will benefit the landlord at the end of their term. If the land does not belong to their landlord, the land will become part of both the tenancy and the reversion. If the land does belong to their landlord, it would seem that it will be gained by the tenant but only for the period of their term. Since September 2012, squatting in a residential building is a criminal offence, but this does not prevent title being claimed by reason of adverse possession even if the claimant is committing a criminal offence. This was confirmed in Best v Chief Land Registrar, where it was held that criminal and land law should be kept separate.

United States disseisors

Requirements

The party seeking title by adverse possession may be called the disseisor, meaning one who dispossesses the true owner of the property. Although the elements of an adverse possession claim may be different in a number of states, adverse possession requires at a minimum five basic conditions being met to perfect the title of the disseisor. These are that the disseisor must openly occupy the property exclusively, in a manner that is open and notorious, continuously, and use it as if it were their own in a manner expected for the type of property. Some states impose additional requirements. Many of the states have enacted statutes regulating the rules of adverse possession. Some states require a hostility requirement to secure adverse possession. While most states take an objective approach to the hostility requirement, some states require a showing of good faith. Good faith means that claimants must demonstrate that they had some basis to believe that they actually owned the property at issue. Four states east of the Mississippi that require good faith in some form are Georgia, Illinois, New York, and Wisconsin.

Additional requirements

In addition to the basic elements of an adverse possession case, state law may require one or more additional elements to be proved by a person claiming adverse possession. Depending upon the state, additional requirements may include:

Color of title, claim of title, or claim of right. Color of title and claim of title involve a legal document that appears to give the disseisor title. In some jurisdictions the mere intent to take the land as one's own may constitute "claim of right", with no documentation required. Other cases have determined that a claim of right exists if the person believes they have rightful claim to the property, even if that belief is mistaken. A negative example would be a timber thief who sneaks onto a property, cuts timber not visible from the road, and hauls the logs away at night. Their actions, though they demonstrate actual possession, also demonstrate knowledge of guilt, as opposed to claim of right.

Good faith in a minority of states or bad faith, sometimes called the "Maine Doctrine" although it is now abolished in Maine.

Improvement, cultivation, or enclosure .

Payment of property taxes. This may be required by statute, such as in California, or just a contributing element to a court's determination of possession. Both payment by the disseisor and by the true owner are relevant.

Dispossession of land owned by a governmental entity: Generally, a disseisor cannot dispossess land legally owned by a government entity even if all other elements of adverse possession are met. One exception is when the government entity is acting like a business rather than a government entity.

Consequences

A disseisor will be committing a civil trespass on the property he has taken and the owner of the property could cause him to be evicted by an action in trespass ("ejectment") or by bringing an action for possession. All common law jurisdictions require that an ejectment action be brought within a specified time, after which the true owner is assumed to have acquiesced. The effect of a failure by the true landowner to evict the adverse possessor depends on the jurisdiction, but will eventually result in title by adverse possession. In 2008, due to the volume of adverse possession and boundary dispute cases throughout New York City, the New York State Legislature amended and limited the ability of land to be acquired by adverse possession. Prior to the 2008 amendment, to acquire property by adverse possession, all that was required was a showing that the possession constituted an actual invasion of or infringement upon the owner's rights.

Approximately eight years after the 2008 amendment, on 30 June 2016, the New York State Appellate Division, First Department (i.e., the appellate court covering the territory of Manhattan) determined the legal questions concerning the scope of rights acquired by adverse possession and how the First Department would treat claims of adverse possession where title had vested prior to 2008. The Court specifically held that title to the adversely possessed property vested when the plaintiff "satisfied the requirement of the statute in effect at the relevant time." In other words, if title had vested at some time "after" the 2008 amendment, a plaintiff would have to satisfy the adverse possession standards amended by the New York State Legislature in 2008; however, if title vested at some time "before" the 2008 amendment, a plaintiff would have lawfully acquired title to the disputed area by satisfying the pre-amendment standard for adverse possession.

Hudson Square Hotel also resolved two often highly litigated issues in adverse possession cases where the air rights are more valuable than the underlying land itself: (a) "where", i.e., in three-dimensional physical space is an encroachment required in order for such encroachment to have any relevant operative effect or consequences under the law of adverse possession, and (b) "what" property rights are acquired as a result of title to the ground floor area, i.e., the land, vesting with the plaintiff. In Hudson Square Hotel the defendant argued that the plaintiff had only acquired title to the underlying land, but not the air rights, because the plaintiff never encroached above the two-story building. This argument was motivated, in part, by the fact that the zoning laws at the time permitted the owner of the land to build, i.e., develop up to six times the square footage of the ground floor area. For example, if the disputed area was 1,000 square feet, there would be 6,000 square feet of buildable square footage to potentially be won or lost by adverse possession.

The Court clarified, "It is the encroachment on the land ... that allows title to pass to the adverse possessor." In other words, the plaintiff did not need to encroach upon all six stories in order to adversely possess the air rights above the land. The Court also held, "With title to land come air rights." In other words, by acquiring title to the land, i.e., ground floor area, the plaintiff also acquired ownership of the more valuable air rights that were derivative of title to the underlying land.

In other jurisdictions, the disseisor acquires merely an equitable title; the landowner is considered to be a trustee of the property for the disseisor. Adverse possession extends only to the property actually possessed. If the original owner had a title to a greater area or volume of property, the disseisor does not obtain all of it. The exception to this is when the disseisor enters the land under a color of title to an entire parcel, their continuous and actual possession of a small part of that parcel will perfect their title to the entire parcel defined in their color of title. Thus, a disseisor need not build a dwelling on, or farm on, every portion of a large tract in order to prove possession, as long as their title does correctly describe the entire parcel.

In some jurisdictions, a person who has successfully obtained title to property by adverse possession may optionally bring an action in land court to "quiet title" of record in their name on some or all of the former owner's property. Such action will make it simpler to convey the interest to others in a definitive manner, and also serves as notice that there is a new owner of record, which may be a prerequisite to benefits such as equity loans or judicial standing as an abutter.

> An abutter is a person or entity whose property is adjacent to the property of another. In jurisdictions such as Massachusetts, New Hampshire, and Nova Scotia, it is a defined legal term. Some jurisdictions, such as Virginia, may use the term adjacent landowner, while others, such as California, use the term adjoining landowner, and the United States Environmental Protection Agency defines rights of contiguous property owners (CPO).

Even if such action is not taken, the title is legally considered to belong to the new titleholder, with most of the benefits and duties, including paying property taxes to avoid losing title to the tax collector. The effects of having a stranger to the title paying taxes on property may vary from one jurisdiction to another. Many jurisdictions have accepted tax payment for the same parcel from two different parties without raising an objection or notifying either party that the other had also paid.

In the spirit of land use politics, even the unified voices of the concerned abutters may sound only faintly against the machinery of "progress" or well-funded special interests. However, the courts will objectively consider a proper case brought by an abutter whose rights have been arguably under-appreciated. Generally, the more abutters interested in a project, the more likely someone will object to it.

Some regulations otherwise expand or limit the participation of local owners, as where notice may be required for "anyone whose property is within 200 feet of any point of the parcel under consideration." Another expansive definition would include those whose properties are across a public way or flowing waterway, where the parcels do not actually touch. Contrarily, regulations may define "abutter" to include only those people who hold record title to an adjacent parcel, thus undermining the rights of tenants, associations and partial owners, e.g., mineral rights and easement owners to be notified, let alone heard on a proposal. This would also eliminate participation of owners of unrecorded title, such as adverse possession or those who have simply failed to record a deed or settle an estate involving the adjacent property.

Adverse possession does not typically work against property owned by the public

The process of adverse possession would require a thorough analysis if private property is taken by eminent domain, after which control is given to a private corporation, such as a railroad, and then abandoned.

Where land is registered under a Torrens title registration system or similar, special rules apply. It may be that the land cannot be affected by adverse possession, as was the case in England and Wales from 1875 to 1926, and as is still the case in the state of Minnesota, or that special rules apply. Adverse possession may also apply to territorial rights. In the United States, Georgia lost an island in the Savannah River to South Carolina in 1990, when South Carolina had used fill from dredging to attach the island to its own shore. Since Georgia knew of this yet did nothing about it, the U.S. Supreme Court, which has original jurisdiction in such matters granted this land to South Carolina, although the Treaty of Beaufort (1787) explicitly specified that the river's islands belonged to Georgia.

Louisiana

Louisiana, which is a civil law state, adopts the legal doctrine of acquisitive prescription. It is derived from French law and governs the right of a person to gain possession of immovable property (a home). Pursuant to Civil Code Article 742, there are two ways that a squatter can gain possession of an immovable property: (1) peaceable and

uninterrupted possession... for ten years in good faith and by just title; [or] (2) uninterrupted possession for thirty years without title or good faith.

Squatter's rights

Most cases of adverse possession deal with boundary line disputes between two parties who hold clear title to their property. The term "squatter's rights" has no precise and fixed legal meaning. In some jurisdictions the term refers to temporary rights available to squatters that prevent them, in some circumstances, from being removed from property without due process. For example, in England and Wales reference is usually to section 6 of the Criminal Law Act 1977. In the United States, no ownership rights are created by mere possession, and a squatter may only take possession through adverse possession if the squatter can prove all elements of an adverse possession claim for the jurisdiction in which the property is located.

As with any adverse possession claim, if a squatter abandons the property for a period, or if the rightful owner effectively removes the squatter's access even temporarily during the statutory period, or gives their permission, the "clock" usually stops For example, if the required period in a given jurisdiction is twenty years and the squatter is removed after only 15 years, the squatter loses the benefit of that 15-year possession (i.e., the clock is reset at zero). If that squatter later retakes possession of the property, that squatter must, to acquire title, remain on the property for a full 20 years after the date on which the squatter retook possession. In this example, the squatter would have held the property for 35 years, comprising the original 15 years plus the later 20 years, to acquire title.

Depending on the jurisdiction, one squatter may or may not pass along continuous possession to another squatter, known as "tacking". Tacking is defined as "The joining of consecutive periods of possession by different persons to treat the periods as one continuous period; esp., the adding of one's own period of land possession to that of a prior possessor to establish continuous adverse possession for the statutory period." There are three types of Privity: Privity of Contract; Privity of Possession; and Privity of Estate. One of the three types of privity is required in order for one adverse possessor to "tack" their time onto another adverse possessor in order to complete the statutory time period. One way tacking occurs is when the conveyance of the property from one adverse possessor to another is founded upon a written document (usually an erroneous deed), indicating "color of title." A lawful owner may also restart the clock at zero by giving temporary permission for the occupation of the property, thus defeating the necessary "continuous and hostile" element. Evidence that a squatter paid rent to the owner would defeat adverse possession for that period.

England and Wales

Although "squatting" is a criminal offence in England and Wales under Section 144 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), the Court of Appeal has clarified that Section 144 will not bar a person who wants to claim adverse possession, based on the rule of ex turpi causa, from relying on illegal squatting as an act demonstrating possession of the property.

Section 17 of the Limitation Act 1980 means the old title holder's estate will be extinguished and a new one will be created for the successful squatter. This section also inserted an immediate power of entry to the premises into Section 17 of the Police and Criminal Evidence Act 1984. Finally, schedule 6 (para 7) of the Land Registration Act 2002 allows the successful adverse possessor to be registered as the new proprietor.

Theory and scholarship

Utilitarianism

Scholars have identified four utilitarian policies which justify adverse possession.

The first is that it exists to cure potential or actual defects in real estate titles by putting a statute of limitations on possible litigation over ownership and possession. Because of the doctrine of adverse possession, a landowner can be secure in title to their land. Otherwise, long-lost heirs of any former owner, possessor or lien holder of centuries past could come forward with a legal claim on the property.

The second theory is that adverse possession is "a useful method for curing minor title defects". For example, someone may have had the intention to sell all of a parcel of land but mistakenly excluded a portion of it on the title. Thus, adverse possession allows the purchaser of the land to maintain ownership of the parcel which they believed was theirs from the impressions given by the seller.

The third theory is that adverse possession encourages and rewards productive use of land. Essentially, "by vesting title in the industrious settler—rather than the absentee landowner—adverse possession promote[s] rapid development".

The fourth theory is that the adverse possessor places a high personal value on the land while the real title holder has effectively abandoned it, thus on principles of personhood and efficiency it makes sense to allow the change in title.

Copyright scholarship

Some legal scholars have proposed the extension of the concept of adverse possession to intellectual property law, in particular to reconcile intellectual property and antitrust law or to unify copyright law and property law.

Fiat money or Fiat currency

Note: Fīat is the third-person singular present active subjunctive of fiō meaning "I become", "I am made". Historically, the term fiat derives from Latin for "let [it] be done", used in the sense of an order, decree or resolution.

Fiat money or fiat currency is a type of government-issued currency, generally created by a central bank, authorized by government regulation to be legal tender but not backed by a precious metal, such as gold or silver, nor by any other tangible asset or commodity. Government-issued fiat money banknotes were first used during the 13th century in China.

Since the end of the Bretton Woods system in 1976 by the Jamaica Accords, all the major government currencies in the world are fiat money.

Fiat money generally does not have intrinsic value nor a use value. It has value only because the “individuals” who use it as a unit of account or, in the case of currency, a medium of exchange agree on its value. They trust that it will be accepted by merchants and other people as a means of payment for liabilities. Austrian, monetarist, neoclassical and New Keynesian economists argue that an increase in the fiat money supply causes inflation while Keynesian, Post-Keynesian and modern monetary theory economists argue that an increase in money supply is insufficient to cause inflation, which is in alignment with the so-called ‘new math’, wherein a negative plus a negative equals a positive.

Fiat money is an alternative to commodity money, i.e., a currency that has intrinsic value because it contains, for example, a precious metal such as gold or silver which is embedded in the coin. Fiat also differs from representative money, i.e., money in the form of paper bills, that has intrinsic value because it is backed by and can be converted into a precious metal or another commodity. Fiat money can look similar to representative money, but the former has no backing, while the latter represents a claim on a commodity or a tradable investment, and is redeemable to a greater or lesser extent.

A system of national fiat currencies has been used globally, when fiat money started to predominate during the 20th century, after United States / US President Richard Nixon's suspended the convertibility of the US dollar

to gold in 1971.

Fiat money can be:

Money declared by a person, institution or government to be legal tender, meaning that it must be accepted in payment of a debt in specific circumstances.

State-issued money which is neither convertible through a central bank to anything else nor fixed in value in terms of any objective standard.

Money used because of government decree.

An otherwise non-valuable object that serves as a medium of exchange, also known as fiduciary money.

Treatment in economics

Most of the money in the economy is created, not by printing presses at the central bank, but by banks when they provide loans. [...] This also means as you pay off the loan, the electronic money your bank created is 'deleted' – it no longer exists. So essentially, banks create money, not wealth. — Bank of England

In monetary economics, fiat money is an intrinsically valueless object or record that is accepted widely as a means of payment. Accordingly, the value of fiat money is greater than the value of its metal or paper content.

One justification for fiat money comes from a micro-founded model. In most economic models, agents are intrinsically happier when they have more money. In a model by Lagos and Wright, fiat money does not have an intrinsic worth but agents get more of the goods they want when they trade assuming fiat money is valuable. Fiat money's value is created internally by the community and, at equilibrium, makes otherwise infeasible trades possible.

Objections to fiat money can be traced back to at least the 1700s. In 1787, George Washington wrote to Jabez Bowen, regarding the Rhode Island pound:

"Paper money has had the effect in your State that it ever will have, to ruin commerce—oppress the honest, and open a door to every species of fraud and injustice."

In the Grundrisse (1857–58), Karl Marx considered the modern economic ramifications of a historical switch to fiat money from the gold or silver-commodity. Even Karl Marx wrote:

"Suppose that the Bank of France did not rest on a metallic base, and that other countries were willing to accept the French currency or its capital in any form, not only in the specific form of the precious metals. Would the bank not have been equally forced to raise the terms of its discounting precisely at the moment when its "public" clamoured most eagerly for its services? The notes with which it discounts the bills of exchange of this public are at present nothing more than drafts on gold and silver. In our hypothetical case, they would be drafts on the nation's stock of products and on its directly employable labour force: the former is limited, the latter can be increased only within very positive limits, and in certain amounts of time. The printing press, on the other hand, is inexhaustible and works like a stroke of magic."

Commenting on the passage, Marxist economist and geographer David Harvey writes that:

"[t]he consequence, as Marx saw it, would be that "the directly exchangeable wealth of the nation" would be 'absolutely diminished' alongside of 'an unlimited increase of bank drafts', i.e., accelerating indebtedness), with the direct consequence of 'increase in the price of products, raw materials and labor' causing inflation, alongside a 'decrease in price of bank drafts', resulting in an ever-falling or decreasing rates of interest."

Harvey notes the accuracy of the modern economy in this way, save for

> "...the rising prices of labor and means of production causes low inflation except for assets such as stocks and shares, land and property and resources such as water rights."

The latter point can be explained by the private exportation of debt, labor, and figurative and/or literal waste to the global periphery countries, which is a concept related to metabolic and carbon rift. Another mathematical model that explains the value of fiat money comes from game theory.

In a game where agents produce and trade objects, there can be multiple Nash equilibria where agents settle on stable behavior. In a model by Kiyotaki and Wright, an object with no intrinsic worth can have value during trade in one or more of the Nash equilibria.

History

China

China has a long history with paper money, beginning in the 7th century CE. During the 11th century, the government established a monopoly on its issuance, and about the end of the 12th century, convertibility was suspended. The use of such money became widespread during the subsequent Yuan and Ming dynasties.

The Song dynasty in China was the first to issue paper money, called the jiaozi, about the 10th century CE. Although the notes were valued at a certain exchange rate for gold, silver, or silk, conversion was never allowed in practice. The notes were initially to be redeemed after three years' service, to be replaced by new notes for a 3% service charge, but, as more of them were printed without notes being retired, inflation became evident. The government made several attempts to maintain the value of the paper money by demanding taxes partly in currency and making other laws, but the damage had been done, and the notes became disfavored.

The succeeding Yuan dynasty was the first dynasty of China to use paper currency as the predominant circulating medium. The founder of the Yuan dynasty, Kublai Khan, issued paper money known as Jiaochao during his reign. The original notes during the Yuan dynasty were restricted in area and duration as in the Song dynasty.

During the 13th century, Marco Polo described the fiat money of the Yuan dynasty in his book The Travels of Marco Polo:

> All these pieces of paper are issued with as much solemnity and authority as if they were of pure gold or silver... and indeed everybody takes them readily, for wheresoever a person may go throughout the Great Kaan's dominions he shall find these pieces of paper current, and shall be able to transact all sales and purchases of goods by means of them just as well as if they were coins of pure gold. — Marco Polo, The Travels of Marco Polo

Europe

According to a travelogue of a visit to Prague in 960 by Ibrahim ibn Yaqub, small pieces of cloth were used as a means of trade, with these cloths having a set exchange rate versus silver.

> Around 1150, the Knights Templar would issue notes to pilgrims. Pilgrims would deposit valuables with a local Templar preceptory before embarking for the Holy Land and receive a document indicating the value of their deposit. They would then use that document upon arrival in the Holy Land to receive funds from the treasury of equal value.

Washington Irving records an emergency use of paper money by the Spanish for a siege during the Conquest of Granada (1482–1492). In 1661, Johan Palmstruch issued the first regular paper money in the West, by royal charter from the Kingdom of Sweden, through a new institution, the Bank of Stockholm. While this private paper currency was largely a failure, the Swedish parliament eventually assumed control of the issue of paper money in the country. By 1745, its paper money was inconvertible to specie, but acceptance was mandated by the government.

This fiat currency depreciated so rapidly that by 1776 it was returned to a silver standard. Fiat money also has other beginnings in 17th-century Europe, having been introduced by the Bank of Amsterdam in 1683.

New France 1685–1770

In 17th century New France, now part of Canada, the universally accepted medium of exchange or fiduciary money, was the beaver pelt. As the colony expanded, coins from France came to be used widely, but there was usually a shortage of French coins. In 1685, the colonial authorities in New France found themselves seriously short of money. A military expedition against the Iroquois had gone badly and tax revenues were down, reducing government money reserves. Typically, when short of funds, the government would simply delay paying merchants for purchases, but it was not safe to delay payment to soldiers due to the risk of mutiny. Jacques de Meulles, the Intendant of Finance, conceived an ingenious ad hoc or 'improvised' solution – the temporary issuance of paper money to pay the soldiers, in the form of playing cards. He confiscated all the playing cards in the colony, had them cut into pieces, wrote denominations on the pieces, signed them, and issued them to the soldiers as pay in lieu of gold and silver. Because of the chronic shortages of money of all types in the colonies, these cards were accepted readily by merchants and the public and circulated freely at face value. It was intended to be purely a temporary expedient, and it was not until years later that its role as a medium of exchange was recognized. The first issue of playing card money occurred during June 1685 and was redeemed three months later. However, the shortages of coinage reoccurred and more issues of card money were made during subsequent years. Because of their wide acceptance as money and the general shortage of money in the colony, many of the playing cards were not redeemed but continued to circulate, acting as a useful substitute for scarce gold and silver coins from France. Eventually, the Governor of New France acknowledged their useful role as a circulating medium of exchange.

> The governor of New France was the viceroy of the King of France in North America. A French nobleman, he was appointed to govern the colonies of New France, which included Canada, Acadia and Louisiana. The residence of the Governor was at the Chateau St. Louis in the capital of Quebec City. Acadia, Louisiana, and the towns of Trois-Rivières and Montreal had their own particular governors. Prior to the establishment of the 1663 Sovereign Council, the highest positions in New France were that of Governor and Lieutenant-General, which were often held by the same person. The Governor then had responsibilities over both military and civil affairs in the colonies. With the new royal administration of 1663, the title of governor general was given to the person responsible for the military and diplomatic relations. The duties of administration of justice, police and finance were given to the Intendant, who presided over the Sovereign Council. The Governor General answered to the French Secretary of State of the Navy and the Controller General of Finance.

As the finances of the French government deteriorated because of European wars, it reduced its financial assistance to its colonies, so the colonial authorities in Canada relied more and more on card money. By 1757, the government had discontinued all payments in coin and payments were made in paper instead. In an application of Gresham's Law – bad money drives out good – people hoarded gold and silver, and used paper money instead. The costs of the Seven Years' War resulted in rapid inflation in New France. After the British conquest in 1760, the paper money became almost worthless, but business did not end because gold and silver that had been hoarded came back into circulation. By the Treaty of Paris (1763), the French government agreed to convert the outstanding card money into debentures, but with the French government essentially bankrupt, these bonds were defaulted and by 1771 they were worthless.

The Royal Canadian Mint still issues Playing Card Money in commemoration of its history, but now in 92.5% silver form with gold plate on the edge. It therefore has an intrinsic value which considerably exceeds its fiat value. The Bank of Canada and Canadian economists often use this early form of paper currency to illustrate the true nature of money for Canadians.

18th and 19th centuries

| Adoption of 'Gold Standard', i.e., paper currency convertible into gold | Adoption of 'Gold Standard', i.e., paper currency convertible into gold |
|---|---|
| Country | Year |
| United Kingdom | 1821 |
| Germany | 1871 |
| Sweden | 1873 |
| United States (de facto) | 1873 |
| France | 1874 |
| Belgium | 1874 |
| Italy | 1874 |
| Switzerland | 1874 |
| Netherlands | 1875 |
| Austria-Hungary | 1892 |
| Japan | 1897 |
| Russia | 1898 |
| United States (de jure) | 1900 |

An early form of fiat currency in the Thirteen Colonies was "bills of credit". Provincial governments produced notes which were fiat currency, with the promise to allow holders to pay taxes with those notes. The notes were issued to pay current obligations and could be used for taxes levied at a later time. Since the notes were denominated in the local unit of account, they were circulated from person to person in non-tax transactions. These types of notes were issued particularly in Pennsylvania, Virginia and Massachusetts. Such money was sold at a discount to silver. The government would then spend them, and they would expire at a fixed later date.

Bills of credit have generated some controversy from their inception. Those who have wanted to emphasize the dangers of inflation have emphasized those colonies where the bills of credit depreciated most dramatically: New England and the Carolinas. Those who wanted to defend the use of bills of credit in the colonies have emphasized the middle colonies, where inflation was practically nonexistent.

Colonial powers intentionally introduced fiat currencies backed by taxes, e.g., hut taxes or poll taxes to mobilize economic resources in their new possessions, at least as a transitional arrangement. The purpose of such taxes was later served by property taxes. The repeated cycle of deflationary hard money, followed by inflationary paper money continued through much of the 18th and 19th centuries. Often nations would have dual currencies, with paper trading at some discount to money which represented specie.

Examples include:

the "Continental" bills issued by the U.S. Congress before the United States Constitution;

paper versus gold ducats in Napoleonic era Vienna, where paper often traded at 100:1 against gold;

the South Sea Bubble, which produced bank notes not representing sufficient reserves; and

the Mississippi Company scheme of John Law.

During the British North American Civil War, the Federal Government issued United States Notes, a form of paper fiat currency known popularly as 'greenbacks'. Their issue was limited by Congress at slightly more than $340 million. During the 1870s, withdrawal of the notes from circulation was opposed by the United States Greenback Party. It was termed 'fiat money' in an 1878 party convention.

20th century

Immediately after World War I, governments and banks generally still promised to convert notes and coins into their nominal commodity, with redemption by specie, which was typically gold on demand. However, the costs of the war and the required repairs and economic growth based on subsequent government borrowing made governments suspend redemption by specie. Some governments were wary of avoiding sovereign default but did not realize the consequences of paying debts by consigning newly printed cash not associated with a metal standard to their creditors, which resulted in hyperinflation, as was witnessed with the hyperinflation in the Weimar Republic.

From 1944 to 1971, the Bretton Woods agreement fixed the value of 35 United States dollars to one troy ounce of gold. Other currencies were calibrated with the U.S. dollar at fixed rates: for example the pound sterling traded for many years within a narrow band centered on US$2.80. The U.S. promised to redeem dollars with gold transferred to other national banks. Trade imbalances were corrected by gold reserve exchanges or by loans from the International Monetary Fund (IMF). The Bretton Woods system was ended by what became known as the Nixon shock, a series of economic changes by United States President Richard Nixon in 1971.

> These changes included unilaterally canceling the direct convertibility of the United States dollar to gold. Since then, a system of national fiat monies has been used globally, with variable exchange rates between the major currencies.

Precious metal coinage

During the 1960s, production of silver coins for circulation ceased when the face value of the coin was less than the cost of the precious metal it contained, whereas it had been greater historically. In the United States, the Coinage Act of 1965 eliminated silver from circulating dimes and quarter dollars, and most other countries did the same with their coins. The Canadian penny, which was mostly copper until 1996, was removed from circulation altogether during the autumn of 2012 due to the cost of production relative to face value. On February 9, 2025, United States President Donald Trump instructed Scott Bessent, the secretary of the Treasury, to halt production of the penny, citing its high production costs. In 2007, the Royal Canadian Mint produced a million dollar gold bullion coin and sold five of them. In 2015, the gold in the coins was worth more than 3.5 times the face value.

Money creation and regulation

A central bank introduces new money into an economy by purchasing financial assets or lending money to financial institutions. Commercial banks then redeploy or repurpose this base money by credit creation through fractional reserve banking, which expands the total supply of "broad money", i.e., cash plus demand deposits.

In modern economies, relatively little of the supply of broad money is physical currency. For example, in December 2010 in the U.S., of the $8,853.4 billion of broad money supply (M2), only $915.7 billion (about 10%) consisted of physical coins and paper money. The manufacturing of new physical money is usually the responsibility of the national bank, or sometimes, the government's treasury.

The Bank for International Settlements historically published detailed reviews of payment system developments in the Committee on Payments and Market Infrastructures (CPMI) countries through annual "red book" reports. Since November 2023, this data is now published through the BIS Data Portal rather than as a PDF report. The CPMI releases updated statistics annually in March, accompanied by a brief analytical report on payment trends. The value of physical currency as a percentage of GDP ranges from 19.4% in Japan to 1.7% in Sweden, with an overall average of 8.9% (7.9% for the US).

Data on currency in circulation (M0) obtained from central bank reports and statistical releases, with foreign currency amounts converted to US dollars using Federal Reserve exchange rates as of December 31, 2024.

Inflation

The adoption of fiat currency by many countries, from the 18th century onwards, made much larger variations in the supply of money possible. Since then, huge increases in the supply of paper money have occurred in a number of countries.

Austrian, monetarist, neoclassical and New Keynesian economists hold that increase in money supply causes inflation while Keynesian, Post-Keynesian and modern monetary theory economists argue that increase in money supply is insufficient to cause inflation, if it doesn't result in increased aggregate demand or if it increases aggregate demand, but not enough to fill the output gap - the potential of the economy to produce goods and services.

The channel through which money supply is increased affects its distribution between firms and households, which in turn determines whether aggregate demand is increased. For example wealthy households that save most of their income contribute much less of this income to aggregate demand than poor households that spend most of it. As a result, if money supply takes the form of government bond coupon payments, these payments are received by wealthy households or by banks and firms that are in turn owned by mostly wealthy households, resulting in increased savings and increased prices of assets like real estate, but a negligible effect on aggregate demand.

Presently, most economists favor a small and steady rate of inflation. Small, as opposed to zero or negative) inflation reduces the severity of economic recessions by enabling the labor market to adjust more quickly to a recession, and reduces the risk that a liquidity trap, i.e., a reluctance to lend money due to low rates of interest, prevents monetary policy from stabilizing the economy. However, low interest rates don't always cause nominal increases of price. Money supply growth may instead result in stable prices at a time in which they would otherwise be decreasing. Some economists maintain that with the conditions of a liquidity trap, large monetary injections are like "pushing on a string".

The task of keeping the rate of inflation small and stable is usually given to monetary authorities. Generally, these monetary authorities are the national banks that control monetary policy by the setting of interest rates, by open market operations, and by the setting of banking reserve requirements.

Loss of backing

Austrian, monetarist and New Classical economists generally argue that fiat-money systems are vulnerable to severe inflation when fiscal discipline collapses and monetary authorities are forced to accommodate deficits, often citing historical hyperinflations such as in Weimar Germany, Zimbabwe, and Venezuela. These schools emphasize excessive money growth, loss of credibility, and fiscal dominance as central mechanisms. In contrast, Modern Monetary Theory economists argue that all cases of hyperinflation were preceded by a prior collapse of real productive capacity due to war, land reform or external constraints and that money creation alone has historically not been sufficient to cause hyperinflation, though it may exacerbate inflation once real productive limits are breached.

Adverse possession in Australia

Appropriation (economics)

Informal settlement

Title (property)

Pedis possessio ("possession of the foot"): ownership by first occupiSquatting: unauthorized use of abandoned property with no implied ownership or right to use

Usucaption: acquisitive prescription ownership after defined period of unauthorized occupation

Uti possidetis

Preemption Act of 1841: acquisitive prescription law in USA

Rights of way in England and Wales

Usufruct: acquired right to use but not own property

Revised statute 2477: highways & paths law in USA

Easement: for related adverse rights

Lien: right of others to hold or sell to solve debt

List of real estate topics

Possession is nine-tenths of the law

Property law

Property rights

Deed: legal document defining interest or ownership

Adverse abandonment

Acquisitive prescription / Usucaption

Acquisitive prescription is a mode of acquiring ownership through long, continuous, open, and adverse possession of property for a period set by the Civil Code—10 years for ordinary prescription and 30 years for extraordinary prescription for immovables. Acquisitive prescription is also known as usucapion. It allows a possessor to become the owner of property after meeting legal conditions over time. It is governed by Articles 1106–1155 of the Civil Code of the Philippines.

Legal Basis

Civil Code of the Philippines (RA 386) — Articles 1106–1155 define prescription, including requisites and periods.

PD 1529 (Property Registration Decree) — Registered land cannot be acquired by prescription.

Public Land Act (CA 141) — Special rules for alienable and disposable public land.

Types of Acquisitive Prescription

1. Ordinary Acquisitive Prescription

Immovables: 10 years

Movables: 4 years

Requirements:

Good faith — honest belief that the transferor was the owner.

Just title — a valid mode of transfer from someone who was not the true owner.

2. Extraordinary Acquisitive Prescription

Immovables: 30 years

Movables: 8 years

Requirements:

No need for good faith or just title.

Requisites for Prescription to Run

Possession must be:

- Open — visible, not hidden.
- Continuous — uninterrupted.
- Exclusive — possessor acts as sole owner.
- Notorious — known in the community.
- Adverse / In concept of owner (en concepto de dueño) — not by tolerance, lease, or agency.

Additional conditions:

- Property must be susceptible to prescription (patrimonial property).
- Possessor and owner must have capacity to acquire/lose rights.

Properties Not Subject to Acquisitive Prescription

- Registered land (Torrens title) — absolutely imprescriptible.
- Public domain lands unless classified as alienable and disposable.
- Property outside commerce of men, e.g., rivers, roads.

Tacking of Possession

Successive possessors may combine (tack) their periods of possession if there is privity between them (e.g., sale, inheritance).

Practical Effect

Once the statutory period lapses with all requisites present, the possessor's title becomes legally recognized, and the original owner's right to recover the property is extinguished. This ensures stability of property rights and discourages owners from neglecting their land. Acquisitive prescription remains a foundational doctrine in Philippine property law, balancing long-term possession with the need for certainty in ownership.

Extinctive Prescription

Definition: Extinctive prescription, also called statute of limitations or limitation of actions, results in the loss of rights or the bar of legal actions if not exercised within the period prescribed by law (Article 1106, par. 2; Article 1139).

Key Features:

- Purpose: To extinguish a cause of action or obligation due to inaction over time.
- Scope: Applies to civil and, in some cases, criminal actions, except for certain rights that do not prescribe (e.g., actions to demand a right of way or to abate a nuisance).
- Effect: The party barred from filing an action loses the ability to enforce the right, while the opposing party is freed from liability.

Key Distinctions

| Feature | Acquisitive Prescription | Extinctive Prescription |
|---|---|---|
| Purpose | To acquire ownership or rights | To extinguish rights or bar actions |

| Feature | Acquisitive Prescription | Extinctive Prescription |
|---|---|---|
| Legal Effect | Possessor gains ownership; previous owner loses property | Right-holder loses the ability to enforce a claim; opposite party is liberated from obligation |
| Requirement | Continuous possession, sometimes with good faith and just title | Inaction or failure to file a claim within the prescriptive period |
| Applicable Cases | Civil property cases | Civil and some criminal actions |
| Time Frame | Varies: 4–30 years depending on property type and conditions | Varies depending on the type of action; failure to act within the period bars the claim |

Summary

Acquisitive prescription creates a new right in favor of the possessor, effectively transferring ownership, while extinctive prescription removes an existing right or bars legal action due to the lapse of time. Both are governed by the Civil Code of the Philippines but serve opposite legal functions: one vests rights, the other extinguishes them

Usucaption

Usucaption from Latin: usucapio, also known as acquisitive prescription, is a concept found in civil or private law systems and has its origin in the Roman law of property.

Usucaption is a method by which ownership of property, i.e., title to the property, can be gained by possession of it beyond the lapse of a certain period of time or acquiescence. n law, acquiescence occurs when a person knowingly stands by, without raising any objection to the infringement of their rights, while someone else unknowingly and without malice aforethought acts in a manner inconsistent with their rights. As a result of acquiescence, the person whose rights are infringed may lose the ability to make a legal claim against the infringer, or may be unable to obtain an injunction against continued infringement. The doctrine infers a form of "permission" that results from silence or passiveness over an extended period of time. Although not typically found in statutory law, the doctrine of acquiescence is well-supported by case law. One common context in which acquiescence is raised is when there is a dispute or disagreement over the location of a property line, followed by an extended period of time during which the parties respect a property line. Even if it is later discovered that the actual property line was in a different location, the long-term acquiescence to the incorrectly placed line may result in its becoming enforceable as the legal property line.

While usucaption has been compared with adverse possession, the true effect of usucaption is to remedy defects in title of lands that are without encumbrance on them.

Some Background

Under Roman law, the necessity for usucaption arose in Roman law with the divide between res mancipi and res nec mancipi. Res mancipi required elaborate and inconvenient formal methods of conveyance to transfer title via a formal mancipatio ceremony, or in iure cessio. Res nec manicipi could be transferred by traditio, i.e., delivery or in iure cessio.

> Traditio was an informal conveyance which only required the intention to transfer and delivery of the property. If res mancipi were transferred by traditio, full ownership would not pass and the recipient would become a bonitary owner.
>
> Therefore, another form of conveyance was required that did not necessitate a ceremony or appearance before the praetor. Because Rome was becoming mercantile, it was simply inconvenient to perform a formal conveyance simply because property was classed as res mancipi. There might also be a demand to transfer

property in private between the transferring parties, such as in the establishment of fideicommissa meaning Roman trusts.

The need for establishing ownership by means other than conveyance was also a result of the practical defect of a system of ownership based on valid transfer. Title to property could be challenged under this system, because it depended on the good title of the person from whom you acquired the property and so on. If any person's title in the chain were challenged successfully, then this would defeat any title derived from it. This defect required a means of establishing ownership that was not contingent upon a chain of title but could be established independently.

The Roman Law of Usucapio

However, if a bonitary owner kept the res, the thing or the property in his possession for a certain amount of time, e.g., two years for land, one year for chattels, i.e., personal property, his title would become full title and he could assert himself as dominus, meaning "an owner", including the owner of a house or of enslaved persons..

Usucaption was the solution that emerged to address the defects of Roman ownership. It required five elements:

Uninterrupted possession of the property for the requisite period, e.g., one year for chattels, two years for land;

The property was capable of being owned. Not a free man for example;

Good faith. For example, a buyer might purchase a slave, categorized as res mancipi in good faith but find twelve months on that the vendor or seller did not himself have good title to that slave;

Iusta causa. A proper ground for acquiring the property, e.g. showing that the acquirer paid for the property.

The property must not have been stolen any time or taken by force.

This largely ameliorated the problems experienced by conveyance as a means of establishing ownership but could still yield harsh results. A purchaser of res mancipi could be on his way to successfully usucaping the property, e.g., 11 months in possession, but would lose his claim to it if his possession was challenged before the period of usucaption by someone who could establish title.

Usucaption was altered by the Actio Publiciana, see Gaius 4.36, which gave scope in the vindicatio meaning the action for property, for a fictitious usucaption. Such a situation would only arise where the claimant's possession of the property had been interrupted before the period required to usucape it had elapsed. The Actio Publiciana made provision for the possessor of the property to be taken to have usucaped it successfully, if he could show that he would have usucaped the property had his possession of it not been interrupted. In this way usucaption became the dominant form of establishing ownership in Rome.

In Rabbinic Judaism

In orthodox Jewish law, the right of usucaption is defined in a compendium of Oral Laws compiled in 189 CE or Common Era, known as the Mishnah, see Baba Bathra 3:1-ff.. The general scope of the law formerly provided for the right of possession of property in the absence of a legal deed or title, if, after three years of occupancy, no protest or counter-claim had been made to the same property.

Title by usucaption to houses, cisterns, trenches, vaults, dovecots, bath-houses, olive-presses, irrigated fields, and slaves, and aught that brings constant gain, is secured by occupation during three completed years; title by usucaption to unirrigated fields is secured by occupation during three years and they need not be completed.

If a dispute had arisen over property within this three-year time-frame, the property is assumed to belong to the person who challenges the claim of the illegal tenant, particularly, when the other is publicly known to have originally possessed the land or house. In such cases, if so-and-so "A" claimed that so-and-so "B" wrongfully took

possession of his property, but so-and-so "B" retorted, "Yes, it was formerly yours, but you sold it to me," or "Yes, it was formerly yours, but I received it from you as a gift," - if "A" is known to have once possessed the property, he is assumed to be the rightful owner of the property, and it is the duty of "B" to show proof that "A" either sold it to him, or gave it to him as a gift. The absence of proof renders "B"'s hold of the property null and void.

A squatter who fences in the property, or who locks it up, or who refurbishes it, or who has the keys to the property delivered unto him, are all signs of legal conveyance and is assumed to be the rightful owner, even in the absence of a legal deed. After three years of occupancy the squatter cannot be evicted from the property, unless the original owner can show proof or bring witnesses who testify to the effect that the property is still vested in his name, and that no transaction, conveyance or sale was made between him and the squatter, even though he held it for three years or more, in which case the squatter is forcibly evicted from the property and the court replevins the estate to its rightful owner. The application of this law is similar to what was found in ancient Roman law, under rei vindicatio.

Three years was considered the least amount of time needed for a rei vindicatio to happen, meaning, one year being the time needed for the discovery of the illegal occupant, another year being the time needed to notify the original owner about his property being taken, and another year being the time needed for him to return to the Land of Israel from a far-away country, such as Spain, in order to evict the occupant. The protest must be made before at least two competent witnesses and submitted in a court of law against another's wrongful occupation of his property within the three-year allotted period, in which case the squatter's assumed right to the said property is automatically canceled, unless he can provide proof of purchase. The squatter who fails to provide a legal deed of purchase, or who lost his deed of purchase, forfeits his hold of the property. The language of protestation by the rightful owner is such, or to the effect of such: "So-and-so, who is making use of my courtyard or my field, is a thief." The person who protests another man's wrongful hold of his property must be known by others to be the rightful owner of that property, and if not, the squatter is able to say, "I take no heed to his protestations."

Title by usucaption in the above cases does not apply to persons who had been artisans working on the property in question, or to persons who had been co-partners in business with the original owner, or to persons who had been sharecroppers on the property in question, or to persons who had acted as legal guardian of the original owner, nor can title by usucaption apply to a man when it comes to his wife's property, or vice-versa, when his wife comes to claim her husband's property.

The Jewish custom in Jerusalem during Ottoman rule over Palestine was that wherever it was widely known by the public that a fellow Jew had been deprived of his property under the land tenure laws known as Mülk, where Jewish-owned land was given by the Ottoman conqueror to Muslims, or Khuraj lands given to Christians and taxed, in exchange for Muslim protection, which same lands became private or allodial land, held in absolute ownership, the usurping occupant was divested of his property and the property returned to its rightful owner, even if the owner could not show proof of purchase.

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